

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

SHERMAN DIVISION

UNITED STATES OF AMERICA

vs.

DAVID CARL HARVEY (1)

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§

Criminal No. 4:06cr136  
(Judge Schell)

**ELEMENTS OF THE OFFENSE**

**Fraudulent Use of Access Devices  
(18 U.S.C. § 1029(a)(5))**

DAVID CARL HARVEY, you are charged in Count Two of an Indictment filed in the Eastern District of Texas with Fraudulent Use of Access Devices, a violation of Title 18, United States Code, Section 1029(a)(5). I will now explain the essential elements of the offense which the government must prove beyond a reasonable doubt before you could be convicted, but which you would admit if your plea is accepted.

Title 18, United States Code, Section 1029(a)(5), makes it a crime for anyone to conspire with someone else to commit an offense against the laws of the United States. To be found guilty of this crime, the government must have proved each of the following beyond a reasonable doubt:

- First:** That you knowingly effected transactions, with one or more access devices issued to another person or persons;
- Second:** That by effecting those transactions during the one-year period beginning August 28, 2003 and ending August 24, 2003, you obtained a thing or things, having an aggregate value of \$1,000 or more;
- Third:** That you acted with the intent to defraud; and

**Fourth:** That your conduct affected interstate commerce.

Respectfully submitted,  
MATTHEW D. ORWIG  
United States Attorney

/s/

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**CERTIFICATE OF SERVICE**

I hereby certify a true and correct copy of the foregoing was delivered via CM/ECF to Neil Durrance, attorney for Defendant, on this the 17th day of October, 2006.

/s/

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TERRI L. HAGAN